

## MINUTES

### ALCOHOL AND TOBACCO COMMISSION

NOVEMBER 1, 2011

#### CALL TO ORDER/NOTING OF QUORUM

Chairman Huskey called the meeting to order and noted the quorum and the attendance. Present were Vice Chairman Johnson, Commissioner Guthrie and Commissioner Sturtz. Lieutenant McKinney and Executive Secretary Neal were also in attendance.

Jeff McKean, Debbie Rolfsen, Greg Genrich, Lisa McKinney, Matt Brase, Trevor Vance, John Barnett, Bart Herriman, Marc Carmichael, Mark Webb and Connie Vickery were present as observers.

#### DISPOSITION OF MINUTES

Commissioner Sturtz moved to approve the minutes that were submitted for the October 18, 2011 meeting. Vice Chairman Johnson seconded. The motion was unanimously approved.

#### HEARING JUDGE'S RECOMMENDATIONS

PARTIES' AGREED DISPOSITIONS – Hearing Judge Neal recommended the Commission approve the parties' agreed dispositions that were submitted for the November 1, 2011 meeting.

Vice Chairman Johnson moved to approve the parties' agreed dispositions that were submitted for the November 1, 2011 meeting. Commissioner Guthrie seconded. The motion was unanimously approved.

RR45-21557 ANGELA BIDDINGS – Hearing Judge Neal stated the renewal of this permit was recommended to be denied by the local board and the Commission upheld that denial. A timely notice of appeal was filed and the matter was set for hearing. The Hearing Judge now submits his proposed findings of fact and conclusions of law for recommendation to the Commission

Vice Chairman Johnson moved to uphold the recommendation of the Hearing Judge and deny the renewal. Commissioner Guthrie seconded. The motion was unanimously approved.

#### CONSIDERATION OF APPLICATIONS

Commissioner Sturtz moved to approve and incorporate by reference these lists of permits for renewal, which have been recommended by local boards and reviewed by our staff with the authority of the Commission. Commissioner Guthrie seconded. The motion was unanimously approved.

Commissioner Sturtz moved to approve and incorporate by reference these lists of permit applications for a new permit, which includes the tabled applications, or applications for changes in location or ownership or both of existing permits, which have been recommended by local boards and reviewed by at least two Commissioners. Vice Chairman Johnson seconded. The motion was unanimously approved.

Commissioner Sturtz moved to approve and incorporate by reference these lists of permit applications for catering. Commissioner Guthrie seconded. The motion was unanimously approved.

Commissioner Sturtz moved to approve and incorporate by reference these lists of permits to be placed in escrow for not more than five years, which have been reviewed and recommended by a Commissioner as appropriate for escrow. Vice Chairman Johnson seconded. The motion was unanimously approved.

Three hundred sixty-five (365) permits approved for renewal, forty-eight (48) new and/or transfer permits approved, six (6) permits approved for catering, five (5) permits approved for first year escrow, four (4) permits approved for second year escrow, one (1) permit approved for fourth year escrow, three (3) permits approved for fifth year escrow and one (1) permit approved for sixth year escrow.

### **RENEWAL LETTERS AND WAIVER OF FEES**

Vice Chairman Johnson moved to approve the renewal letters and the waiver of fees for letters of extension for the preceding weeks. Commissioner Guthrie seconded. The motion was unanimously approved.

### **APPLICATIONS FOR DISCUSSION**

RR20-10175 SANDRA E. MCMASTERS, D/B/A TWISTER CLUB – Commissioner Guthrie noted this is a type 210 renewal application with the local board voting four (4) to zero (0) to disapprove. Applicant had violations during this renewal period and was required to appear at the local board meeting. The applicant failed to appear at three consecutive meetings.

Commissioner Guthrie moved to uphold the local board and deny the renewal of the permit. Commissioner Sturtz seconded. The motion was unanimously approved.

RR49-27929 BENNINA’S, INC. D/B/A SOUTHERN FRIED CATFISH HOUSE – Commissioner Guthrie noted this is a new application. The applicant failed to appear at the local board meeting as required, three consecutive times.

Commissioner Guthrie moved to deny the new application. Commissioner Sturtz seconded. The motion was unanimously approved.

### **INACTIVE FILES**

INACTIVE FILES- Vice Chairman Johnson moved to make thirty (30) permits inactive. Eleven (11) permits are subject to auction and nineteen (19) permits are not subject to auction. Commissioner Sturtz seconded. The motion was unanimously approved.

### **OLD BUSINESS**

DL02-11519 DRULEY ENTERPRISES, INC. - Commissioner Guthrie noted this is a type 217 permit. Five years of escrow will expire 12/31/11. Permittee requests an additional year of escrow because they have found a new location and as soon as a transfer is approved, they will begin operating the business.

Commissioner Guthrie moved to approve the extra year of escrow. Vice Chairman Johnson seconded. The motion was unanimously approved.

RR45-03341 REDVILLE, LLC - Vice Chairman Johnson noted this permittee filed a renewal and a request for an additional year of escrow, which would make 6 years of escrow, on June 25, 2010. The file resurfaced in August 2011, with no answer being given to the that request. The attorney in this matter is aware his client has basically had an additional year of escrow already and because nothing has changed regarding the situation with putting this permit into use that there is a very good chance the request for renewal and an additional year of escrow will be denied.

Vice Chairman Johnson moved to deny the request for renewal and additional escrow. Commissioner Guthrie seconded. The motion was unanimously approved.

COUPONS AND REBATES – Executive Secretary Neal stated this matter was continued until today. All of the information that was submitted by the industry was considered prior to today’s vote.

The Executive Secretary recommended that the Commission, consistent with past practice and following the Administrative Code and Indiana Code, allow for the non-discriminatory use of coupons and rebates as follows: they must be affixed to the alcohol product in combination packaging; they shall not be available for redemption by any member of any tier of the alcohol industry; they shall be related to non-alcohol products available in all types of dealer premises; and, they may only be redeemed by the end consumer. Failure by the permittee to deploy conforming coupons and rebates may result in the permittee forfeiting the right to get future coupons and rebates approved. All requests for approval must be submitted to the Indiana State Excise Police Trade Relations Officer for review. If approved, industry members deploying coupons and rebates must carefully maintain records for each one they use. If permittee fails to comply with these policies, this shall result in a violation where consequences may be a fine, suspension or revocation of the permit. Finally, the Commission will issue a non-rule policy that lays out the manner in which the industry requests permission to deploy coupons and rebates.

Commissioner Guthrie moved to approve this policy. Vice Chairman Johnson seconded. The motion was unanimously approved.

## **NEW BUSINESS**

RR79-00365 KNICKERBOCKER SALOON, INC. AND RR29-22875 HAMILTON TOWN CENTER – Commissioner Guthrie stated these permits were made dead because no renewals were filed. Permittees stated they just missed renewal time and request the permits be reactivated.

Commissioner Guthrie moved to approve reactivation, under the condition that all paperwork is filed and all fees paid. Vice Chairman Johnson seconded. The motion was unanimously approved.

## **POLICY DETERMINATIONS**

No Policy Determinations

## **ANNOUNCEMENTS**

No Announcements

## **ADJOURNMENT**

Commissioner Sturtz moved to adjourn the meeting. Commissioner Guthrie seconded. The motion was unanimously approved.

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

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ALEX HUSKEY, CHAIRMAN

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DAVID JOHNSON, VICE CHAIR

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DALE STURTZ, COMMISSIONER

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FRANK GUTHRIE, COMMISSIONER